

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2256

Introduced by Assembly Member Huffman
(Coauthor: Assembly Member Jones)
(Coauthors: Senators Hancock and Pavley)

February 18, 2010

An act to add Chapter 9 (commencing with Section 119420) to Part 15 of Division 104 of the Health and Safety Code, relating to flushable products.

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, as amended, Huffman. Product labeling: flushable products.

Existing law regulates the labeling requirements on various consumer products.

This bill would prohibit, on or after January 1, 2012, a person from packaging or labeling a consumer product, *as defined*, for distribution or sale in California if that product is contained in a package, or has an affixed label, that states that the product is flushable, sewer and septic safe, or other like term or phrase unless the product meets specified criteria. The bill would require a person who has packaged or labeled a *consumer* product for distribution or sale in California that is labeled as flushable, sewer and septic safe, or other like term or phrase, to maintain, in written form, documentation of the testing substantiating the validity of the claim, *except as specified*. The bill would exempt certain retailers and wholesalers from these provisions. The bill would make violation of this provision punishable by a fine of up to \$2,500.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 ~~(a) There is currently no consistent or widely accepted definition~~
4 ~~of what constitutes a “flushable” consumer product. As a result,~~
5 ~~companies have used their own definitions and methods to~~
6 ~~determine the flushability of their products. For consumers and~~
7 ~~wastewater agencies, this means there has been no single reference~~
8 ~~from which to assess the flushability of products.~~
9 ~~(b) This lack of consistency has lead to confusion and lack of~~
10 ~~clarity in the marketplace as to the appropriateness of disposing~~
11 ~~certain products via plumbing systems. Where such confusion~~
12 ~~exists, there is a higher risk that nonflushable products will be~~
13 ~~flushed down a toilet, which has lead to costly plumbing repairs~~
14 ~~and extraordinary maintenance problems for sanitary sewer systems~~
15 ~~and wastewater treatment plants.~~
16 ~~(c)~~
17 (a) Products that are poorly designed to be flushed down the
18 toilet can cause sewer blockages, which damage sewer lines and
19 lead to costly sanitary sewer overflows. Damage and overflows
20 present dangers to public health and the environment.
21 ~~(d)~~
22 (b) A buildup of nonflushable products has been shown to cause
23 clogs in sewage pumps, lead to entanglements in sewage treatment
24 equipment, lead to sewer backups in residences, and increase the
25 risk of a sanitary sewer overflow ~~during a storm.~~
26 ~~(e)~~
27 (c) An increasing concern among public wastewater agencies
28 is the prevalence of consumer products found in sewage
29 infrastructure around the state that do not ~~breakdown~~ *break down*
30 and disintegrate after being flushed down a toilet.
31 ~~(f)~~
32 (d) The increased maintenance needed to prevent problems from
33 nonflushable products is very costly to public wastewater agencies
34 *and their ratepayers.*

~~(g) It is in the best interests of manufacturers, retailers, consumers, and regulators, as well as wastewater treatment managers and operators, that there be a consistent and clear definition of flushability.~~

~~(h)~~

(e) To prevent nondispersable or poorly dispersable products from entering sewer systems and potentially causing overflows, ~~it is the intent of the Legislature to define “flushable” in order to assist manufacturers when labeling their products and enable it is the intent of the Legislature to enable~~ consumers to identify which products are safe to dispose of via the plumbing system.

(f) *It is also the intent of the Legislature to update Chapter 9 (commencing with Section 119420) of Part 15 of Division 104 of the Health and Safety Code so that the guidance criteria for flushability published by the Association of the Nonwoven Fabrics Industry are updated and improved to reflect new plumbing, septic, and sewage technologies.*

(g) *It is also the intent of the Legislature to encourage the inclusion of representatives of California’s sanitation districts on any peer review panel that reviews updates to the guidance criteria.*

SEC. 2. Chapter 9 (commencing with Section 119420) is added to Part 15 of Division 104 of the Health and Safety Code, to read:

CHAPTER 9. FLUSHABLE PRODUCTS

119420. (a) On or after January 1, 2012, no person shall package or label a consumer product for distribution or sale in California if that product is contained in a package, or has an affixed label, that states that the *consumer* product is flushable, sewer and septic safe, or other like term or phrase ~~unless the product has been tested and certified by a third party to meet the acceptance criteria for toilet, drainline, sewage pump, septic tank, aerobic system, and municipal wastewater collection and treatment systems clearance as published in the Guidance unless the product meets the acceptance criteria as published in the Guidance~~ Document for Assessing the Flushability of Nonwoven Consumer Products, published by the Association of the Nonwoven Fabrics Industry (INDA), as that document exists on January 1, 2012.

(b) ~~A~~ *Except as provided in subdivision (c), a person who has packaged or labeled a consumer product for distribution or sale in*

1 California that is labeled as flushable, sewer and septic safe, or
2 other like term or phrase, shall maintain, in ~~written form,~~
3 ~~documentation of the testing substantiating the validity of the~~
4 ~~claim.~~ *written form, documentation of the testing that substantiates*
5 *the validity of the claim that the product meets the acceptance*
6 *criteria described in subdivision (a), as well as documentation*
7 *that this testing has been performed by a laboratory that is capable*
8 *of and qualified to perform the testing as specified in the*
9 *acceptance criteria.*

10 (c) *If the consumer product is tested prior to January 1, 2012,*
11 *and meets the acceptance criteria described in subdivision (a), or*
12 *the equivalent criteria for toilet, septic, and sewage systems, any*
13 *documentation may be used to substantiate the validity of the claim*
14 *that the product meets the criteria.*

15 (d) *Commencing January 1, 2015, a laboratory that performs*
16 *testing for purposes of this chapter shall be audited annually for*
17 *quality assurance and quality control.*

18 ~~(e)~~

19 (e) For purposes of this section, a wholesaler or retailer who
20 does not initiate a representation by advertising or by placing the
21 representation on a package shall *not* be subject to the provisions
22 of this section.

23 (f) *For purposes of this section, “consumer product” means a*
24 *solid material that does not dissolve in water. “Consumer product”*
25 *does not include, among other products, a liquid, gel, or powder*
26 *cleaning product or septic treatment product.*

27 119421. Violation of this chapter shall be punishable by a fine
28 not to exceed two thousand five hundred dollars (\$2,500).